

FILED

NOT FOR PUBLICATION

APR 17 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

GLORIA MENDOZA ESPINOZA;
ADALINE MENDOZA,*

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74266

Agency Nos. A95-315-334
A95-315-335

MEMORANDUM **

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2006***

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

* Adaline Mendoza also is referred to as Adilene Mendoza Mendoza in the record.

** This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Gloria Mendoza Espinoza and her minor daughter Adaline Mendoza, both natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reconsider. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We deny in part and dismiss in part the petition for review.

Even construed liberally, petitioners' pro se brief does not challenge the BIA's determination that their motion should be deemed a motion to reconsider, and as such, was untimely. Accordingly, petitioners have waived any challenge to the BIA's denial of their motion. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

To the extent petitioners seek review of the BIA's underlying order dismissing their appeal from the immigration judge's decision denying their applications for cancellation of removal, we lack jurisdiction. *See id.* at 1258 (an alien's filing of a motion to reopen and reconsider does not toll statutory time to appeal underlying final order).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.